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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYBefore the
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)	
Petition of NewPath Holdings, Inc.)	
For an Expedited Declaratory Ruling on the)	CC Docket No. 00-50
Scope of Unbundled Access to the)	
High-Frequency Portion of Loops)	

REPLY COMMENTS OF SBC COMMUNICATIONS, INC.

SBC Communications Inc. (SBC) submits this reply to the comments filed in this proceeding. SBC continues to urge the Commission to dismiss or deny NewPath's petition.

I. NEWPATH'S PETITION IS PROCEDURALLY AND LEGALLY FIRM

As stated in SBC's initial comments, NewPath's petition should be dismissed because it is an untimely petition for rehearing of the Line Sharing Order. Sprint recognizes as much by noting the connection between the NewPath petition and the timely filed petitions for reconsideration of the Line Sharing Order filed by AT&T and MCI Worldcom.¹

GTE also recognizes the infirm nature of NewPath's petition by noting that it does not seek mere "clarification," but an "unlawful retroactive rulemaking."² GTE further notes that NewPath's petition does not satisfy the requirements for issuing a declaratory ruling because no controversy exists as to the meaning of the Line Sharing Order.³ Even the Telecommunications Reseller Association (TRA) recognizes that there is no ambiguity in the Line Sharing Order and that the incumbent does not "carry traditional POTS," "provide analog voice service" or "provide voiceband service" to the resale service customer.⁴

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¹ Sprint, pp. 1-2.

² GTE, p. 2.

³ GTE, pp. 2-3, 6.

⁴ TRA, pp. 5-7. To that extent, the largest association of competitive carriers in the United States disagrees with AT&T that there is any ambiguity in the Line Sharing Order. AT&T, pp. 3-4.

Finally, as both Bell Atlantic and US West point out, what NewPath seeks would be unprecedented - "to both unbundle and provide services for resale over the same loop." No such arrangement is contemplated by the Act.⁵

II. THE ARGUMENTS ADVANCED IN SUPPORT OF THE PETITION ARE UNFOUNDED AND MISPLACED

AT&T, Sprint, and to a limited extent TRA, filed comments in support of NewPath's petition. The gist of their argument is that additional unbundling is needed to promote the provision of advanced services and to prevent the incumbents from having a first-mover advantage.⁶ AT&T, in particular, claims that additional unbundling is necessary so that the incumbents are not the only providers of bundled voice and data services.⁷

For AT&T to make such claims is hypocritical, given its steadfast refusal to open up its own network to competitors, and the fact that it is one of the few providers that can today provide a complete bundle of voice and data (including long distance) services. Moreover, as Bell Atlantic points out, competing carriers are "deploying advanced services as rapidly as incumbents, and cable companies retain their historic lead over broadband access to the home."⁸

Similarly, it is preposterous for AT&T to suggest that there are "no technical, economic, or operational impediments that would preclude the ILECs from providing the relief requested in the NewPath Petition or the AT&T and MCI Worldcom Petitions for Clarification."⁹ As Bell Atlantic correctly states, line sharing over resold lines "involves yet another layer of operational complexity, which has not been addressed in connection with the industry's current line sharing implementation efforts."¹⁰ US West also notes that a number of technological and systems

⁵ Bell Atlantic, pp. 3-4; US West, pp. 2-4.

⁶ AT&T, pp. 6-8; Sprint, pp. 1-2; TRA, pp. 7, 9-10.

⁷ AT&T, p. 6.

⁸ Bell Atlantic, pp. 4-5.

⁹ AT&T, p. 4.

¹⁰ Bell Atlantic, p. 2.

changes would be required.¹¹ Indeed, it was precisely for such reasons that the Commission rejected having more than two service provider's share a single loop.¹² Furthermore, in a resale line sharing situation, the incumbent's relationship with the end user is severed, it provides no retail services, and there is a different set of circumstances than when it has sole responsibility for the retail provision of the voice service on the loop.¹³ Finally, AT&T misrepresents the position taken by SBC's affiliate in California wherein AT&T states that the affiliate acknowledged that it could provide both voice and advanced services over the same loop to a UNE-P carrier using the same procedures used to provide line sharing to other CLECs.¹⁴ First, there is no transcript of pages 511-515 in that proceeding as the transcript stopped at page 474. Second, at pages 420-424 of that transcript, the SBC witness actually stated that there had been no request for the necessary OSSs changes to be developed, which is far from saying that more than two carrier line sharing could be implemented with existing OSSs and it cannot be. Thus, the arguments asserted in support of the NewPath petition are both unfounded and misplaced.

III. CONCLUSION

The Commission should dismiss and/or deny NewPath's petition.

¹¹ US West, pp. 4-5.

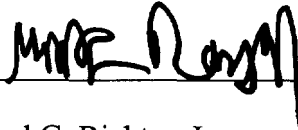
¹² Line Sharing Order, at para. 74.

¹³ Bell Atlantic, pp. 6-7; US West, pp. 4-5.

¹⁴ AT&T, fn. 14.

Respectfully submitted,

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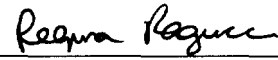
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